

Appl. No. 10/682,346
Amendment dated September 16, 2005
Reply to Office Action of August 12, 2005

REMARKS/ARGUMENTS

Reconsideration of this application is respectfully requested.

Claims 17-24 are pending in the application, with claims 1-16 having been canceled, claim 17 having been amended, and new claims 20-24 added.

Claims 17-19 have been rejected under 35 U.S.C. 102(b) as being anticipated by German Pilsener lager beer (www.eat-online.net/english/habits/germany_habits.htm) and (www.economicexpert.com/a/Pilsener.htm). According to the Examiner:

"With regard to claim 17, Eat online discloses the content of the German Pilsener lager beer (see pages 3-4) consisting of ribo flavin (vitamin B2) at a concentration of 336µg/L, which is equivalent to 0.33ppm. Economic expert discloses that the first batch of modern Pilsener was on 5th October 1842 (line 5). Applicant recites in the claim that a hopped malt beverage whereby the riboflavin content is reduced to less than about 0.2ppm has enhanced stability to light. It is inherent that the Pilsener lager beer with 0.33ppm riboflavin, which is about 0.2ppm, therefore has improved stability to light."

The Applicants strongly disagree that 0.33 ppm riboflavin is "about 0.2 ppm." It is recognized that there is some degree of uncertainty in the law concerning the meaning of "about" and the extent to which the term may serve to broaden a range used in a patent claim. However, 0.33 ppm is a concentration that is 68% greater than 0.2 ppm, and, it is submitted, there is no known legal holding that "about" can extend a range that far.

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Notwithstanding the foregoing, and in the interest of advancing the application to allowance, Applicants have amended the pending claims to change "about 0.2 ppm" to the more definite "0.2 ppm". It is thus respectfully submitted that the cited references neither disclose nor suggest any pilsener having a riboflavin level below 0.2 ppm, as required by the amended claims.

In view of the foregoing, it is submitted that this application is now in condition for allowance and an early Office Action to that end is earnestly solicited.

Respectfully submitted,

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Date

for Pat. L. Lewis Reg. No. 30,754
James L. Lewis
Reg. No. 24,732

Levy & Grandinetti
Suite 408
1725 K Street, N.W.
Washington, D.C. 20006-1419

(202) 429-4560